

RECORDATION NO. 17158-C FILED

MAY 17 '06 12:47 PM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD
ATTORNEYS AT LAW
1050 SEVENTEENTH STREET, N.W.
SUITE 301
WASHINGTON, D.C.

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

20036

OF COUNSEL
URBAN A. LESTER

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

May 17, 2006

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Assignment and Assumption Agreement, dated as of May 12, 2006, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Lease of Railroad Equipment previously filed with the Commission under Recordation Number 17158.

The names and addresses of the parties to the enclosed document are:

Assignor: Bank of America Leasing & Capital, LLC
(successor in interest to Fleet Capital
Corporation and The CIT Group/Equipment
Financing, Inc.)
555 California Street, 4th Floor
San Francisco CA 94104

Assignee: Helm Financial Corporation
505 Sansome Street, Suite 1800
San Francisco CA 94111

Mr. Vernon A. Williams
May 17, 2006
Page 2

A description of the railroad equipment covered by the enclosed document is:

99 railcars with HPJX and TNM reporting marks and road numbers within the series 20000 – 20099 as more particularly set forth in the equipment schedule attached to the document filed under Recordation Number 17158.

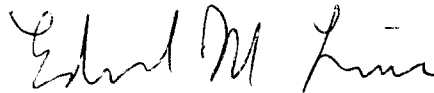
A short summary of the document to appear in the index is:

Memorandum of Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$34.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Edward M. Luria".

Edward M. Luria

RWA/sem
Enclosures

MAY 17 '06

12:47 PM

MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF ASSIGNMENT AND ASSUMPTION AGREEMENT dated as of this 12th day of May, 2006, is made by Banc of America Leasing & Capital, LLC (successor in interest to Fleet Capital Corporation and The CIT Group/Equipment Financing, Inc.) with an address at 555 California Street, 4th Floor, San Francisco, CA 94104 (the "Assignor"), and Helm Financial Corporation with an address at 505 Sansome Street, Suite 1800, San Francisco, CA 94111 ("Assignee", and together with the Assignor, the "Parties").

WITNESSETH

The parties have entered into that certain Assignment and Assumption Agreement (the "Assignment and Assumption Agreement") dated as of the date hereof;

Under the Assignment and Assumption Agreement, the Assignor assigned its right, title and interest in and to certain railroad equipment and leases and beneficial interests therein to Assignee, and Assignee has accepted and assumed all duties and obligations of Assignor with respect thereto arising on or after the date hereof. The documents relating to the railroad equipment are set forth in Exhibit A hereto. The railroad equipment is described in Exhibit B hereto.

The Parties wish to show for the public record the existence of the aforementioned Assignment and Assumption Agreement, and the respective interests therein of the Parties and accordingly the Parties have caused this Memorandum to be executed by their respective duly authorized officers, as of the date first above written.

[this space intentionally left blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Memorandum to be executed by a duly authorized officer as of the day and year first above written.

BANC OF AMERICA LEASING & CAPITAL, LLC, ASSIGNOR

By: _____

Name: _____

Title: _____

HELM FINANCIAL CORPORATION, ASSIGNEE

By: Barbara W. Wilson

Name: Barbara W. Wilson

Title: SVP & CFO

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this ____ day of May, 2006
by _____, _____ of Banc
of America Leasing & Capital, LLC, personally known to me or proved to me on
the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

SIGNATURE OF THE NOTARY

[Notarial Seal]

STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this 11th day of May, 2006
by Barbara W. Wilson, SVP & CFO of Helm
Financial Corporation, personally known to me or proved to me on the basis of
satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

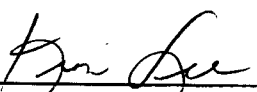
Matthew M. Ogburn
SIGNATURE OF THE NOTARY

[Notarial Seal]



IN WITNESS WHEREOF, each of the undersigned has caused this Memorandum to be executed by a duly authorized officer as of the day and year first above written.

BANC OF AMERICA LEASING & CAPITAL, LLC, ASSIGNOR

By: 

Name: Kim Lee

Title: Managing Director

HELM FINANCIAL CORPORATION, ASSIGNEE

By: _____

Name: _____

Title: _____

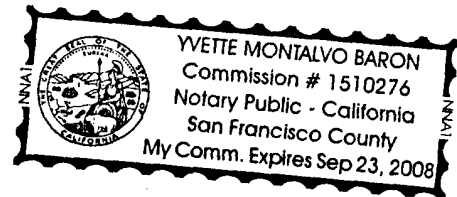
STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this 12th day of May, 2006
by KIM LEE, MANAGING DIRECTOR of Banc
of America Leasing & Capital, LLC, personally known to me or proved to me on
the basis of satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

Yvette Montalvo Baron
SIGNATURE OF THE NOTARY

[Notarial Seal]



STATE OF CALIFORNIA)
) S.S.
COUNTY OF SAN FRANCISCO)

Subscribed and sworn to (or affirmed) before me on this ____ day of May, 2006
by _____, _____ of Helm
Financial Corporation, personally known to me or proved to me on the basis of
satisfactory evidence to be the person who appeared before me.

Witness my hand and official seal.

SIGNATURE OF THE NOTARY

[Notarial Seal]

EXHIBIT A

A. LEASE DOCUMENTS.

1. **Railcar Lease Agreement** dated as of December 28, 1990 and entered into among Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation) ("Lessor"), and JP Morgan (as successor in interest to Capital One Bank and American National Bank and Trust Company of Chicago, a national banking association) ("Trustee"), not personally, but as Trustee under a Trust Agreement dated December 28, 1990, and known as Trust No. 34110007 ("Lessee") and Helm-Pacific Leasing, a Nebraska general partnership ("Beneficiary"), together with all amendments, supplements and waivers thereto. .

a. **Memorandum of Lease Agreement** filed with the STB (formerly the Interstate Commerce Commission) under Recordation Number 17157 and any other documents recorded by Seller or its predecessors with the STB in connection with or relating to said lease and the railcars subject thereto.

b. **Acceptance Certificate** dated December 31, 1990, executed and delivered by The CIT Group/Equipment Financing, Inc., ("Lessor") and Helm-Pacific Leasing Joint Venture ("Beneficiary") and American National Bank and Trust Company of Chicago, as trustee under Trust Agreement dated December 28, 1990, known as Trust No. 34110007 ("Lessee") pursuant to and in accordance with the Railcar Lease Agreement dated as of December 28, 1990 between Lessor, Lessee and Beneficiary.

c. **Clarification Letter** dated January 21, 1991, from Robert J. Peley of Seyfarth, Shaw, Fairweather & Geraldson, counsel for Original Lessor, to Elyse B. Napoli of Kelley, Drye & Warren, counsel for Lessee and Beneficiary.

d. **Re: Amendment to Railcar Lease Agreement** dated February 1, 2000 and addressed to Charles P. McGrath, Vice President, The CIT Group/Equipment Financing, Inc. and signed by Helm Pacific Corporation as General Partner, The CIT Group/Equipment Financing, Inc., Union Pacific Venture Leasing, Incorporated as General Partner and American National Bank and Trust Company of Chicago as Trustee.

2. **Trust Agreement** dated as of December 28, 1990, between Helm-Pacific Leasing, a Nebraska Partnership ("Beneficiary") and American National Bank and Trust Company of Chicago, a national banking association ("Trustee").

3. **Guaranty Agreement** dated as of the 28th day of December 28, 1990, made by Helm-Pacific Leasing, a Nebraska general partnership ("Guarantor"), in favor of The CIT Group/Equipment Financing, Inc., a New York corporation.

4. **Guaranty Agreement** dated as of the 28th day of December 1990, made by Union Pacific Railroad Company, a Utah corporation ("Guarantor"), in favor of The CIT Group/Equipment Financing, Inc., a New York corporation.

B. SUBLEASE DOCUMENTS.

1. **Lease of Railroad Equipment** dated as of December 20, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and Arch Mineral Corporation, a Delaware corporation ("Lessee"), and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17158.

2. **Lease of Railroad Equipment** dated as of October 30, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and The Denver and Rio Grande Western Railroad Company ("Lessee"), a Delaware corporation, and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17159.

3. **Lease of Railroad Equipment** dated as of December 18, 1990, between Helm-Pacific Leasing, a Nebraska Joint Venture ("Lessor") and Union Pacific Railroad Company ("Lessee"), a Utah corporation, and associated Memorandum of Lease of Rail Equipment dated as of December 20, 1990 and recorded under STB Recordation Number 17160.

4. **Assignment of Lease** Recordation No. 17158-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of December 20, 1990 (the "Lease"), and all rental schedules and supplements thereto of which Arch Minerals Corporation is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

5. **Assignment of Lease** Recordation No. 17159-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American

National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of October 30, 1990 (the "Lease"), and all rental schedules and supplements thereto of which The Denver and Rio Grande Western Railroad is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

6. **Assignment of Lease** Recordation No. 17160-A (the "Assignment") from Helm-Pacific Leasing, Joint Venture organized under the laws of the State of Nebraska ("Assignor") and consisting of Helm-Pacific Corporation, a California corporation and Union Pacific Venture Leasing, Incorporated, a Delaware corporation to American National Bank and Trust Company of Chicago, as trustee (the "Trustee"), a national banking association ("Assignee"), and its successors and assigns, all of Assignor's rights, title and interest in and to (a) that certain Lease of Railroad Equipment, dated as of December 18, 1990 (the "Lease"), and all rental schedules and supplements thereto of which Union Pacific Railroad Company is Lessee and Assignor is Lessor and (b) together with all rentals and other monies due thereunder and all other interests stated in the Assignment.

C. SECURITY FOR LEASE OBLIGATIONS.

1. **Security Assignment of Beneficial Interest in Trust** granted by Helm-Pacific Leasing ("Assignor"), a Nebraska general partnership and owner of One Hundred Percent (100%) of the beneficial interest under that certain Trust Agreement ("Trust Agreement") dated December 28, 1990 and known as Trust No. 34110007 (the "Trust"), of which American National Bank and Trust Company of Chicago (the "Trustee"), a national banking association is trustee to Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation) ("Assignee") of all of the right, title and interest of Assignor in, under and to the Trust and the Trust Agreement.

2. **Assignment and Security Agreement** granted by the American National Bank and Trust Company of Chicago, a national banking association, not personally but as trustee under the Trust Agreement dated as of December 28, 1990 ("Trustee") and Helm-Pacific Leasing, a Nebraska Partnership ("Beneficiary") to Banc of America Leasing & Capital, LLC (as successor-in-interest to Fleet Capital Corporation, a Delaware corporation and The CIT Group/Equipment Financing, Inc., a New York corporation).

3. **ICC Lien Letter** from Wilmer, Cutler & Pickering as Special Interstate Commerce Commission Counsel to The CIT Group/Equipment Financing, Inc. in connection with the leasing, subleasing, granting and recording of a security interest in those certain two hundred and thirty (230) hopper cars dated December 31, 1990.

D. ASSIGNMENT DOCUMENTS

1. **Assignment and Assumption Agreement** dated December 28, 2000, between The CIT Group/Equipment Finance, Inc., a New York corporation and Fleet Capital Corporation, a Rhode Island corporation (the predecessor-in-interest to Banc of America Leasing & Capital, LLC and recorded under STB Recordation Number 17157-B.

2. **Bill of Sale** dated December 29, 2000, from The CIT Group/Equipment Financing, Inc. ("Seller") whereby Seller assigns all of Seller's rights, title and interest in and to certain equipment described in Exhibit A attached thereto to Fleet Capital Corporation ("Buyer") pursuant to a Purchase Agreement and an Assignment and Assumption Agreement both dated December 28, 2000 and entered into between Seller and Buyer.

D. ORGANIZATION DOCUMENTS.

1. **Officers' Certificate**, including statement of incumbency and signatures and extracts from bylaws, of Lessee.

2. **Officers' Certificate** from Beneficiary dated December 31, 1990, including statement of incumbency and signatures and copy of Joint Venture Agreement for Beneficiary dated February 21, 1990.

3. **Officers' Certificate** from Helm Pacific Corporation dated December 31, 1990, including statement of incumbency and signatures and copies of Articles and bylaws and authorizing resolution.

4. **Certificate of Good Standing** dated December 18, 1990, for Helm Pacific Corporation.

5. **Officers' Certificate** from Union Pacific Venture Leasing, Incorporated dated December 27, 1990 including statement of incumbency and signatures and copies of Articles and Bylaws and authorizing resolution.

6. **Officer's Certificate** dated December 26, 1990, from Union Pacific Railroad Company including statement of incumbency and signatures and copy of authorizing resolution.

7. Certified Restated Articles of Association and Bylaws of Union Pacific Railroad Company.

F. SUPPORT AND MISCELLANEOUS.

1. **Management Agreement** dated as of December 28, 1990, by and between Helm Financial Corporation, a California corporation ("Manager") and American National Bank and Trust Company of Chicago, as Trustee under a Trust

Agreement dated December 28, 1990, and known as Trust No. 34110007 (the "Trustee"), a national banking association.

2. **ICC Transmittal Letters** dated December 31, 1990:

- a. Lease & Assignment and Security Agreement;
- b. Arch Mineral Sublease, Assignment of Lease & Assignment and Security Agreement;
- c. D&RGW Sublease, Assignment of Lease & Assignment and Security Agreement;
- d. UPRR Sublease, Assignment of Lease & Assignment and Security Agreement.

3. **Letter of Direction** from Beneficiary to Lessee.

G. OPINIONS OF COUNSEL (DATED DECEMBER 31, 1990).

1. Opinion of Beverly S. Green counsel to Union Pacific Railroad Company ("Guarantor") regarding Guarantor's guaranty of certain obligations arising in connection with the leasing of 230 coal hopper cars by Helm-Pacific Leasing.

2. Opinion of Manwell & Milton counsel to Helm-Pacific Leasing, a Nebraska Joint Venture whose co-venturers are Helm-Pacific Corporation and Union Pacific Venture Leasing, Incorporated regarding matters covered in the Railcar Lease Agreement dated as of December 1990.

3. Opinion of Richard R. Forrest Associates, Inc. dated December 26, 1990 regarding the projected Useful Economic Life and the Fair Market at twenty (20) years of certain railroad cars to be manufactured in 1990 for the purpose of hauling coal.

4. Opinion of Beverly S. Green counsel to Union Pacific Venture Leasing, Incorporated dated December 28, 1990 regarding certain corporate matters of Union Pacific Venture Leasing, Incorporated.

5. Opinion of Seyfarth, Shaw, Fairweather & Geraldson counsel to The CIT Group/Equipment Financing, Inc. dated December 31, 1990 regarding certain tax matters.

6. Opinion of Alvord and Alvord counsel to Fleet Capital Corporation dated January 9, 2001 regarding the review and examination of certain Recordation Files with respect to two hundred and twenty nine (229) open top hopper railcars.

Any and all other documents recorded with the Interstate Commerce Commission or Surface Transportation Board with respect to the Equipment as described on Exhibit B hereto.

EXHIBIT B

Two Hundred Fifteen (215) 100 ton, 3,610 cubic foot capacity, open top hopper railcars manufactured in 1990 and bearing the following marks and numbers:

Mark	Number	Mark	Number	Mark	Number	Mark	Number
1	HPJX 20000	55	HPJX 20087	109	HPJX 40552	163	HPJX 40611
2	HPJX 20001	56	HPJX 20089	110	HPJX 40553	164	HPJX 40612
3	HPJX 20002	57	HPJX 20092	111	HPJX 40554	165	HPJX 40613
4	HPJX 20003	58	HPJX 20093	112	HPJX 40555	166	HPJX 40614
5	HPJX 20004	59	HPJX 20097	113	HPJX 40556	167	HPJX 40615
6	HPJX 20005	60	HPJX 20101	114	HPJX 40557	168	HPJX 40616
7	HPJX 20006	61	HPJX 20102	115	HPJX 40558	169	HPJX 40617
8	HPJX 20007	62	HPJX 40500	116	HPJX 40560	170	HPJX 40618
9	HPJX 20008	63	HPJX 40501	117	HPJX 40561	171	HPJX 40619
10	HPJX 20009	64	HPJX 40502	118	HPJX 40562	172	HPJX 40620
11	HPJX 20010	65	HPJX 40503	119	HPJX 40563	173	HPJX 40621
12	HPJX 20011	66	HPJX 40504	120	HPJX 40564	174	HPJX 40622
13	HPJX 20012	67	HPJX 40505	121	HPJX 40565	175	HPJX 40624
14	HPJX 20013	68	HPJX 40506	122	HPJX 40566	176	TNM 20036
15	HPJX 20014	69	HPJX 40507	123	HPJX 40567	177	TNM 20038
16	HPJX 20015	70	HPJX 40508	124	HPJX 40568	178	TNM 20040
17	HPJX 20016	71	HPJX 40509	125	HPJX 40569	179	TNM 20043
18	HPJX 20018	72	HPJX 40510	126	HPJX 40570	180	TNM 20045
19	HPJX 20019	73	HPJX 40511	127	HPJX 40571	181	TNM 20046
20	HPJX 20020	74	HPJX 40512	128	HPJX 40572	182	TNM 20047
21	HPJX 20021	75	HPJX 40513	129	HPJX 40573	183	TNM 20048
22	HPJX 20022	76	HPJX 40514	130	HPJX 40574	184	TNM 20051
23	HPJX 20023	77	HPJX 40515	131	HPJX 40575	185	TNM 20053
24	HPJX 20024	78	HPJX 40516	132	HPJX 40576	186	TNM 20054
25	HPJX 20025	79	HPJX 40518	133	HPJX 40577	187	TNM 20055
26	HPJX 20026	80	HPJX 40519	134	HPJX 40578	188	TNM 20056
27	HPJX 20027	81	HPJX 40520	135	HPJX 40580	189	TNM 20058
28	HPJX 20028	82	HPJX 40521	136	HPJX 40581	190	TNM 20059
29	HPJX 20029	83	HPJX 40522	137	HPJX 40582	191	TNM 20060
30	HPJX 20030	84	HPJX 40524	138	HPJX 40583	192	TNM 20064
31	HPJX 20031	85	HPJX 40525	139	HPJX 40585	193	TNM 20065
32	HPJX 20032	86	HPJX 40529	140	HPJX 40586	194	TNM 20067
33	HPJX 20033	87	HPJX 40530	141	HPJX 40587	195	TNM 20068
34	HPJX 20034	88	HPJX 40531	142	HPJX 40588	196	TNM 20069
35	HPJX 20035	89	HPJX 40532	143	HPJX 40589	197	TNM 20074
36	HPJX 20037	90	HPJX 40533	144	HPJX 40590	198	TNM 20075
37	HPJX 20039	91	HPJX 40534	145	HPJX 40591	199	TNM 20076
38	HPJX 20041	92	HPJX 40535	146	HPJX 40592	200	TNM 20077
39	HPJX 20042	93	HPJX 40536	147	HPJX 40593	201	TNM 20078
40	HPJX 20044	94	HPJX 40537	148	HPJX 40594	202	TNM 20079
41	HPJX 20049	95	HPJX 40538	149	HPJX 40595	203	TNM 20080
42	HPJX 20050	96	HPJX 40539	150	HPJX 40597	204	TNM 20082
43	HPJX 20052	97	HPJX 40540	151	HPJX 40598	205	TNM 20084
44	HPJX 20057	98	HPJX 40541	152	HPJX 40599	206	TNM 20085
45	HPJX 20061	99	HPJX 40542	153	HPJX 40600	207	TNM 20088
46	HPJX 20062	100	HPJX 40543	154	HPJX 40601	208	TNM 20094
47	HPJX 20063	101	HPJX 40544	155	HPJX 40602	209	TNM 20095
48	HPJX 20066	102	HPJX 40545	156	HPJX 40603	210	TNM 20096
49	HPJX 20070	103	HPJX 40546	157	HPJX 40604	211	TNM 20098
50	HPJX 20072	104	HPJX 40547	158	HPJX 40605	212	TNM 20099
51	HPJX 20073	105	HPJX 40548	159	HPJX 40606	213	TNM 20100